

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY D. AMAKER,

Plaintiff,

-against-

C.O. R. LIEBERMAN; C.O. BURZO; and C.O.
HOISTON,

Defendants.

USDC SDNY
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ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 6/24/2022

No. 13-cv-5292 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

The Court is in receipt of *pro se* Plaintiff Anthony Amaker's "Declaration in Opposition" dated June 1, 2022, in which Plaintiff opposes Defendants' motion for summary judgment and requests an extension of time to "complete [his] response." (ECF No. 172.)

On April 16, 2021, this Court granted Defendants leave to file motion for summary judgment, with Plaintiff's opposition papers due on July 16, 2021. The Court granted a "final extension" upon the parties' consent motion for Plaintiff to extend serving his opposition papers until September 15, 2021. (ECF No. 161.) By letter dated October 15, 2021, Plaintiff made an untimely request for an extension of time because he was without internet access. (ECF No. 162.) The Court granted a second "final extension" for Plaintiff to serve his opposition papers on November 22, 2021. (ECF No. 163.) By motion dated January 24, 2022, Plaintiff filed an untimely request for an extension of time to serve his opposition papers on the basis that he was without access to his legal papers due to ongoing legal disputes with a relative. (ECF No. 164.) The Court granted a third extension to Plaintiff, warning that it was "the absolute final extension" for him to serve his opposition papers by April 25, 2022. (ECF No. 165.) Despite multiple extensions and repeated warnings to Plaintiff that these were the final extensions, Plaintiff never

served his opposition papers by April 25, 2022 nor timely sought an extension prior to the due date. (*See* ECF No. 170.) As a result, on June 7, 2022 and prior to receipt of Plaintiff's Declaration in Opposition, this Court deemed Defendants' motion for summary judgment to be fully submitted without opposition from Plaintiff. (ECF No. 171.)

Before the Court is another untimely request for an extension to submit opposition papers from Plaintiff dated June 1, 2022. (ECF No. 172.) Federal Rule of Civil Procedure 6(b) provides that a court "may, for good cause, extend the time . . . on a motion made after the time has expired if the party failed to act because of excusable neglect." A court may extend a lapsed deadline in "purely procedural matters, 'at least when the delay was not long, there is no bad faith, there is no prejudice to the opposing party, and movant's excuse has some merit.'" *Giroto v. Andrianna Shamaris Inc.*, No. 19-CV-913 (JPO), 2019 WL 5634199, at *2 (S.D.N.Y. Oct. 31, 2019) (quoting *LoSacco v. City of Middletown*, 71 F.3d 88, 93 (2d Cir. 1995)). Plaintiff seeks another extension on the same basis as his last extension request – that he is still in the midst of a family court legal dispute with his relative. (*See* ECF No. 172.) Plaintiff has repeatedly failed to follow any of the deadlines set forth by the Court for him to serve his opposition papers. He has repeatedly filed untimely requests for extensions, which the Court had granted on multiple occasions. This last extension to the date of April 25, 2022 was warned to Plaintiff as "the absolute final extension." (ECF No. 170.) Still, Plaintiff had failed to abide by the deadline and did not seek leave prior to April 25, 2022 for an extension for good cause.

Plaintiff's repeated failure to follow the Court's directive and to timely prosecute his case has already caused an extremely long delay in this action. Accordingly, this Court DENIES Plaintiff's request for an extension of time to file an opposition to Defendants' motion for summary judgment. Furthermore, Plaintiff's Declaration in Opposition is stricken as untimely. The Court

reaffirms that Defendants' motion for summary judgment has been deemed fully submitted without opposition from Plaintiff. The Clerk of the Court is respectfully directed to mail a copy of this Order to *pro se* Plaintiff at his address listed on ECF and to show service on the docket.

Dated: June 24, 2022
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read 'Nelson S. Román', is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge